



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 6728-00
14 December 2000

CAPT [REDACTED] USMCR
[REDACTED]
[REDACTED]
[REDACTED]

Dear Captain [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 26 September 2000, and the advisory opinion from the HQMC Career Management Team (CMT), dated 30 October 2000, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB in finding that your contested fitness report should stand. Since the Board found no defect in your performance record, they had no basis to strike your failure by the Fiscal Year 2001 Reserve Major Selection Board. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures

6728-00



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
26 SEP 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED] USMCR

Ref: (a) Captain [REDACTED] DD Form 149 of 26 Jul 00
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 20 September 2000 to consider Captain [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 940701 to 940927 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the mark of "Be Glad" in Item 16 can be construed as "adverse" in nature. As such, he believes he should have been given an opportunity to append a statement of rebuttal.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. Succinctly stated, the mark of "Be Glad" in Item 16 is not, by the guidelines contained in reference (b), an "adverse" mark. As such, the petitioner was correctly not required to sign Item 24 of the report or allowed to submit a rebuttal statement. While the petitioner may view such a mark as "noncompetitive", the Board is hasty to point out that that term is not synonymous with "adverse."

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Captain [REDACTED] official military record.

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED], [REDACTED] USMCR

5. The case is forwarded for final action.

[REDACTED]
[REDACTED]
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6728-00

IN REPLY REFER TO:
1600
CMT
30 Oct 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: RESERVE AFFAIRS REVIEW OF FAILURE OF SELECTION ADVISORY
OPINION ON BCNR APPLICATION; CASE OF CAPTAIN [REDACTED]
[REDACTED], USMCR

Ref: (a) Captain [REDACTED] DD FORM 149 of 26 Jul 00
(b) Marine Corps Advisory Opinion MMER/PERB of
26 Sept 2000

1. We have reviewed reference (a) and provide the following comment on Captain [REDACTED] request for removal of failure of selection to major.
2. Reference (b) found that the fitness report in question was both administratively and procedurally correct. As the removal of this fitness report was the basis for the removal of the failure of selection and the Marine's record has not changed since the Board, there is no basis for the removal of failure of selection.
3. Point of contact is [REDACTED] a [REDACTED]
[REDACTED]
[REDACTED]

By direction